

## ARTICLE 18 – VARIANCES

### SECTION 1801       PURPOSES

The Planning Commission is empowered to grant variances only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The power to grant variances does not extend the use regulations, because the flexibility necessary to avoid results inconsistent with the objectives of the zoning ordinance is provided by the conditional use, planned unit development and amendment provisions of this ordinance.

### SECTION 1802       AUTHORITY OF THE PLANNING COMMISSION

The Planning Commission may grant variances to the regulations prescribed by this ordinance only with respect to size, shape, topography, location or surroundings, and including fences and walls, site areas, coverage, yards, height of and distances between structures, off-street parking facilities and off-street loading facilities.

### SECTION 1803       APPLICATION AND FEE

- A. Application for a variance shall be made to the Planning Commission on a form prescribed by the Commission which shall include the following data:
1. Name and address of applicant.
  2. Statement that the applicant is the owner of the property or is the authorized agent of the owner or the plaintiff in an action of eminent domain to acquire the property involved.
  3. Address or description of property.
  4. Statement of the precise nature of the variance requested and why approval is necessary under the purposes described in Section 2101, together with any other data pertinent to the findings prerequisite to the granting of variance prescribed in Section 1806.
- B. The application shall be accompanied by a drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- C. A drawing of the site and surrounding area, showing all surrounding properties within three hundred (300) feet of the site, and a list of names and last known addresses of the recorded legal owners of such properties, as shown on the latest adopted assessment roll of Sacramento County. County Assessor's maps may be used for this purpose.

- D. The application shall be accompanied by a fee set by resolution of the City Council sufficient to cover the cost of processing the application.
- E. The Secretary of the Planning Commission shall give notice to the applicant of the time when the application will be considered, and may give notice of the time to any other interested party.

SECTION 1804 HEARING AND NOTICE

The Planning Commission shall give notice and hold a public hearing in accordance with the provisions of Sections 1904 and 1905 of this code.

SECTION 1805 PUBLIC HEARING – PROCEDURE

At a public hearing, the Commission shall review the application and the statements and drawings submitted therewith and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in Section 1806.

- A. The Commission shall act on the application within thirty (30) days after the close of the public hearing. The Commission may grant a variance to regulations prescribed by this ordinance, as the variance was applied for or in modified form, if, on the basis of the application, investigation and evidence submitted, the Commission makes the following findings:
  - 1. That there are special circumstances or conditions applicable to the property involved, such that strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
  - 2. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the vicinity and in the same zoning district.

The Commission may grant a variance with respect to off-street parking or loading requirements as the variance was applied for or in modified form if the Commission makes the following additional findings:

- 3. That neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.
- 4. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
- 5. That the variance will not create a safety hazard or any other condition inconsistent with the objectives of the zoning ordinance.

- B. Notwithstanding the provisions of Paragraph A of this Section, the Commission may grant a variance with respect to off-street parking for non-residential development in order that some or all of the required parking spaces can be located offsite, including locations outside of the City limits, or that in-lieu fees or facilities be provided instead of the required parking spaces, if the variance will be an incentive to, and a benefit for the non-residential development.
- C. In approving a variance, the Commission shall add such conditions of approval as it deems necessary to assure that the variance adjustment shall not constitute a grant of special privilege as described under paragraph A of this Section.
- D. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. The Commission may deny a variance application.
- E. A variance shall become effective ten (10) days following the date on which the variance was granted by the Commission unless an appeal is filed with the City Council.

#### SECTION 1807 APPEAL TO CITY COUNCIL

- A. Within ten (10) days following the date of a decision of the Planning Commission on a variance application, the decision may be appealed to the City Council by the applicant or any other interested party. An appeal shall be made in writing to the City Clerk stating specifically wherein it is claimed that there was an error or abuse of discretion by the Planning Commission or the Commission's decision is not supported by the evidence in the record.
- B. Within ten (10) days of the filing of an appeal, the Secretary of the Planning Commission shall transmit to the City Clerk the file on the variance application and the Commission's action thereon for review and action by the City Council.
- C. The City Clerk shall give notice to the applicant and the appellant (if not the applicant), and may give notice to any other interested party of the time when the appeal will be considered by the City Council.

#### SECTION 1808 ACTION BY THE CITY COUNCIL

- A. The City Council shall hear the appeal at its next regular meeting following a period of ten (10) days after the appeal has been filed. The Council may affirm, reverse or modify a decision of the Planning Commission on a variance application, provided that if a decision denying a variance is reversed or a decision approving a variance is modified, the City Council shall, on the basis of the record transmitted and such additional evidence as may be submitted, make the findings prerequisite to the granting of a variance as prescribed in Section 1806 of this Article.
- B. A variance which has been the subject of an appeal shall become effective immediately following the date on which the variance is granted by the City Council.

SECTION 1809 BUILDING PERMIT

The issuance of a building permit shall be governed by the provisions of Section 1410.

SECTION 1810 LAPSE OF VARIANCE

A variance shall lapse and shall become void one (1) year following the date on which the variance becomes effective unless by condition of the variance of a greater time is allowed, or unless prior to the expiration of one (1) year, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on a site which was the subject of the variance application. A variance may be renewed for an additional one (1) year, provided that prior to the expiration of one (1) year from the date when the variance originally became effective, a request for renewal of the variance is made in writing to the Planning Commission. The Commission may grant or deny a request for renewal of a variance.

SECTION 1811 REVOCATION

The revocation of a variance approval shall be governed by the provisions of Section 1414.

SECTION 1812 NEW APPLICATION

Following the denial of a variance application or the revocation of a variance, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within six (6) months of the date of denial of the variance application or revocation of the variance.